THE HONOURABLE SRI JUSTICE V. ESWARAIAH

WRIT PETITION No.5239 OF 2006

Dated: 17-03-2006

Between:

K.Krishna Goud, Proprietor,

M/s.Jagath Guru Saw Mill,

Zaheerabad, Medak and another

...PETITIONERS

AND

The Divisional Forest Officer,

Medak Division, Medak District.

...RESPONDENT

ORDER:

Petitioners question the action of the respondent in issuing the impugned letter No.Rc.No.3224/S3/2005 dated 23.1.2006 by canceling the licence No.101/S3/2003 of the petitioner in running the Saw Mill as illegal and arbitrary.

Heard the learned counsel for the petitioners as well as the learned Government Pleader for Forests.

Learned counsel for the petitioners submits that originally the licence in Rc.No.101/S3/2003 was granted on 23.1.2003 in favour of the 2nd petitioner for running the Saw Mill for the purpose of cutting the wood of forest produce for exempted species only and later the said licence was transferred in favour of the 1st petitioner by proceedings dated 22.6.2004. It is stated that the said licence was obtained for running the Saw Mill for the purpose only to

saw the forest produce and not for trading. The licence granted to the petitioner was renewed periodically by the respondent and the licence is valid up to 31.12.2006. While so, the respondent served a letter in Rc.No.3224/S3/2005 dt.23.1.2006 on the 2nd petitioner informing that the licence granted to him was cancelled basing upon the directions of the Supreme Court of India in W.P.(C).No.202 of 1995, without there being any intimation and insisting the petitioner to close the sawmill. Questioning the same this writ petition has been filed.

In **T.N.GODAVARMAN THIRUMALPAD v. UNION OF INDIA** (W.P.(C).No.202 of 1995), the Supreme Court, inter alia, issued the following directions.

> 1) The ban imposed with regard to the opening of the new saw-mills and other wood-based industries by this Court's order dated 15th January, 1998 in the state of Nagaland is extended by a further period of five years.
>
> 2) The High Powered Committee is allowed to dispose the assets on such defaulting units, including plant, machinery, land, shed, timber and timber products who have not paid the penalty imposed by the High Powered Committee of the wood-based units of north-eastern states. This will be subject to such orders, which may be passed by the Central Empowered Committee.
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> **No State or Union Territory shall permit any unlicensed saw-mills, venner, plywood industry to operate and they are directed to close all such unlicensed unit forthwith. No State Government or Union Territory will permit the opening of any saw-mills, veneer or plywood industry without prior permission of the Central Empowered Committee. The Chief Secretary of each State will ensure strict compliance of this direction. There shall also be no relaxation of rules with regard to the grant of licence without previous concurrence of the Central Empowered Committee.**
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> (emphasis supplied)

A plain reading of the above directions would show that the Supreme Court ordained every State Government and Union Territory not to permit opening of any Saw Mills without the permission of the Central Empowered Committee.

It is the case of the petitioner that the respondent granted the sawmill licence on 23.1.2003.

Whether the said licence was granted contrary to the directions of the Supreme Court is not indicated by issuing a show cause notice but the respondent straightaway passed the impugned order dated 23.01.2006 canceling the sawmill licence.

I am of the opinion that the impugned order is passed without giving any opportunity and without giving any notice to the petitioner. Therefore, without expressing any opinion on the merits of the case, the impugned order is set aside with a liberty to the respondent to issue a show cause notice to the petitioners indicating the reasons as to how the said licence granted in favour of the petitioners on 23.1.2003 is contrary to the aforesaid directions of the Supreme Court and then pass a final order after giving reasonable opportunity to the petitioners in accordance with law.

The writ petition is accordingly disposed of. No order as to costs.

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V. ESWARAIAH, J

March 17, 2006

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